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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,554	04/02/2001	Junsaku Nakajima	70551-55784	9695
21874	7590	10/07/2004	EXAMINER	
EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205			HINDI, NABIL Z	
			ART UNIT	PAPER NUMBER
			2655	

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/824,554

Applicant(s)

NAKAJIMA ET AL.

Examiner

NABIL Z HINDI

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 14-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-13 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 08/06/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

In response to applicant's letter dated June 28, 2004. The following action is taken:

Applicant's election with traverse of claims 1-12 is acknowledged by the examiner. The examiner agrees with applicant's remarks that all other claims will be considered upon the allowance of the generic claim. Applicant's specification identifies at least three different embodiments, and agree that figs 2 and 3 are actually the same embodiment. The examiner agrees with applicant's assertion that claim 13 should be included within the elected claims 1-12. The restriction requirement is made final.

The verified English translation copy of the priority document is acknowledged by the examiner. The drawings filed on April 02, 2001 is approved by the examiner.

In response to applicant's remarks regarding the 1449 dated June 13, 2003 and July 31, 2001. Applicant is respectfully asked to resubmit the documents for reconsideration since the documents are missing from the file.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-13 are rejected under 35 U.S.C. 102(b) as being anticipated by the admitted prior art as shown in figs 6-8B and 11A-13D.

Claim 1 is broadly interpreted to read on the inherent feature of an optical disk wherein data is representative by a first areas having a first depth (pits) and a second area having information (non-pits or mirror). The reference shows an optical disk having a first region wherein data

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having a first depth is recorded fig 13A 53, 56, and a second region having data information with a second depth is recorded fig 13A 55 and 58.

With respect to the limitations of claims 2 and 3. The admitted prior art shows the use of a first and second depth data pits within the first region 55, 58, 52 and 53. The second region (user data region) having pits 55 and 58.

With respect to the limitations of claims 6, 7 and 9-12. The admitted prior art discloses the use of a lead-in area of the disk having the additional information (TOC data) for reading the user data (second region) area. The first region unclosing key data, scrambling data ... etc as disclosed on page 2 of the specification.

With respect to the limitation of claim 8. the second region in fig 13A is identified as a user data area.

With respect to the limitation of claim 13. page 2 of the specification discloses the use of unique data on the disk to identify the disk type.

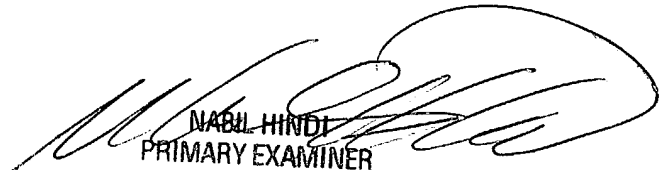
Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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None of the cited prior art discloses the use of a first region having at least two different pit depths wherein the tangential push-pull signal differ in polarity nor the use of two different depth satisfying the formula as claimed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5168490; 6556537 and 6310854 disclosing the use of different pit depth on an optical disk..

Any inquiry concerning this communication should be directed to NABIL Z HINDI at telephone number (703) 308-1555.


NABIL HINDI
PRIMARY EXAMINER
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2655